

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA

CIVIL ACTION NO.: 1:17-CV-00854-TDS-LPA

REBECCA KOVALICH and  
SUZANNE NAGELSKI,

Plaintiffs,

vs.

PREFERRED PAIN MANAGEMENT  
& SPINE CARE, P.A., *et al.*,

Defendants.

**DEFENDANTS' SUGGESTION OF**  
**SUBSEQUENTLY DECIDED**  
**AUTHORITY**

NOW COME Defendants, Preferred Pain Management & Spine Care, P.A. (“PPM”), Dr. David Spivey (“Dr. Spivey”) and Sherry Spivey (“S. Spivey”) (collectively referred to as “Defendants”), by and through their undersigned counsel, and N, in accordance with LR 7.3(i), submits Defendant’s Suggestion of Subsequently Decided Authority.

1. On October 1, 2018, Defendants filed their Motions for Summary Judgment [DE ## 30, 32, 34, 36, 38, and 40]. The Motions have been fully-briefed by the parties [DE ## 31, 33, 35, 37, 49, 41, 47-52, and 59-64].

2. On Monday, March 4, 2019, this Court issued its opinion in *Smith v. Premier Property Management*, 1:18-CV-00081-NCT-JL. The Defendants now submit this case pursuant to LR 7.3(i) as a suggestion of subsequently decided authority. A copy of this opinion is attached hereto as Exhibit “A.”

3. On Tuesday, March 5, 2019, the Fourth Circuit Court of Appeals issued its opinion in *Gomez v. Haystack Tech.*, No. 17-2360; 2019 U.S. App. LEXIS 6619. The Defendants

now submit this case pursuant to LR 7.3(i) as a suggestion of subsequently decided authority.

A copy of this opinion is attached hereto as Exhibit "B."

Respectfully submitted this the 6<sup>th</sup> day of March, 2019.

JACKSON LEWIS P.C.

BY: /s/ Ann H. Smith  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on March 6, 2019, the foregoing *Defendants' Suggestion of Subsequently Decided Authority* was filed with the Clerk of the Court, using the Court's CM/ECF system, which will send notification of such filing as follows:

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The undersigned further certifies that on March 6, 2019, the foregoing *Defendants' Suggestion of Subsequently Decided Authority* was served via United States mail and electronic mail as follows:

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